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July 22, 2024

Magistrate Judge Steven Locke
Eastern District Court New York
100 Federal Plaza, Room 820
Central Islip, New York 11722

Re: *SiteOne Landscape Supply, LLC v. Nicholas Giordano et al.* (2:23-CV-02084)
Supplemental Letter to Request to Adjourn Deadline for Motions to Join New Parties or Amend Pleadings

Dear Judge Locke:

This firm is counsel to Plaintiff SiteOne Landscape Supply, LLC ("SiteOne"). SiteOne filed a letter motion on Friday, July 19 asking the Court to extend the deadline to join new parties or amend pleadings to August 23. [Dkt. No. 137.] The basis for the request is to ensure the parties have the benefit of reviewing the ongoing and forthcoming document productions and other discovery requests to decide whether amendments to pleadings are necessary. [*Id.*]

The potential of adding new parties and claims is very real. For example, SiteOne has identified at least one corporate entity that may need to be added as a party (Don Caroleo Ventures LLC) because it received hundreds of thousands of dollars from Defendant Narrow Way Realty Ltd. during the relevant time periods. But SiteOne requires further discovery from Defendants to assess whether that entity and/or others need to be added as parties.

The undersigned requested consent from Defendants late in the afternoon of July 19 for SiteOne's request to extend the deadline to August 23. On the morning of July 22, counsel for Defendants agreed to a two-week extension of the deadline to August 5. Defendants' counterproposal is inadequate based on the pace of Defendants' document production.¹

To date, the Vic Defendants have produced 17 documents. The Don Defendants have produced 65 documents. Defendants have not identified a target date for additional productions and have been conspicuously silent when pressed for the details of their efforts to collect, search, and produce documents.²

¹ This supplemental letter is provided consistent with SiteOne's representation in its July 19 letter motion that SiteOne would supplement once it heard back from Defendants' counsel with Defendants' position on the requested extension.

² Defendants have also refused to answer basic interrogatories which would enable SiteOne to conduct additional important third-party discovery. For example, each of the Defendants have refused to identify their mobile phone carriers which SiteOne requires to be able to subpoena those entities for phone records to identify communications among the Defendants.

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In contrast, to date, four attorneys for SiteOne have spent more than 100 hours reviewing documents to locate and produce responsive and non-privileged documents. SiteOne has collected SiteOne email and other data for 16 individuals; searched more than 1,000,000 documents; and reviewed more than 10,000 documents that hit on SiteOne's search terms. SiteOne also produced to Defendants two entire business email accounts containing thousands of highly confidential records under an "Attorneys' Eyes Only" designation" to expedite the production of documents.

The parties are currently working through a myriad of discovery disputes that are not yet ripe to rise to Your Honor's attention, having spent about 10 hours on meet and confer videoconferences over the past several weeks. More meet and confer conferences are scheduled for later this week.

Taken together, SiteOne does not believe it will have sufficient discovery responses and documents from Defendants within the next two weeks to know whether SiteOne needs to add claims or parties. Accordingly, SiteOne respectfully requests Your Honor grant an adjournment of the deadline to file motions to join new parties or amend the pleadings to August 23, 2024.

We thank Your Honor for your consideration and attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John 'Evan' Gibbs III".

John "Evan" Gibbs III